

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**H & Q PROPERTIES, INC., A  
Nebraska corporation,  
MARK HOULTON and  
JOHN QUANDAHL**

**Plaintiffs,**

**vs.**

**DAVID E. DOLL; DOUBLE D  
PROPERTIES, LLC, a Nebraska  
limited liability company; DDE, INC.,  
a Nebraska corporation f/k/a Double D  
Excavating, Inc.; NHGC INC.,  
a Nebraska corporation, f/k/a Double D  
Hook-N-Go Containers, Inc.;  
NEBRASKA LOWBOY SERVICES,  
INC., an Iowa corporation;  
LOAD RITE EXCAVATING, LLC, a  
Nebraska limited liability company;  
DOLL CONSTRUCTION, LLC, a  
Nebraska limited liability company;  
NEW ERA CONSTRUCTION  
COMPANY, a Nebraska corporation;  
MALVERN TRUST & SAVINGS  
BANK, an Iowa state-chartered bank,**

**Defendants.**

**Case No. 8:13CV38**

**JOINDER IN  
MOTION TO DISMISS PLAINTIFFS'  
AMENDED COMPLAINT**

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COMES NOW, Defendant Load Rite Excavating, LLC, and joins in the Motion to Dismiss Plaintiffs' Amended Complaint filed December 30, 2013 filed by the Doll Defendants on February 12, 2014. In support hereof, Load Rite Excavating, LLC states as follows:

1. Plaintiffs filed their Amended Complaint, Filing No 80, on December 30, 2013.

2. Plaintiffs assert various causes of action, including three (3) causes of action alleging RICO violations asserting predicate acts of bank fraud, mail fraud and wire fraud.

3. Load Rite joins in the Motion to Dismiss filed by the Doll Defendants on February 12, 2014.

4. The Amended Complaint must be dismissed because:

- a. Plaintiffs' Amended Complaint fails to state a claim upon which relief can be granted.
- b. Plaintiffs lack standing to bring their RICO causes of action.
- c. Plaintiffs have failed to plead their fraud allegations with sufficient particularity.
- d. Upon dismissal of Plaintiffs' federal law claims, the Court should dismiss the state law claims.

5. Plaintiffs are unable to correct the deficiencies in their RICO allegations to support a RICO claim against Load Rite Excavating, LLC, and therefore, further amendment of the complaint should be denied.

6. Defendant Load Rite Excavating, LLC supports all issues raised in the Brief in Support of the Doll Defendants' Motion To Dismiss filed February 12, 2014.

WHEREFORE, Load Rite Excavating, LLC requests the Court enter an order dismissing Plaintiff's RICO claims with prejudice, dismiss the state law claims, and grant such other and further relief as is just and equitable.

Dated this 12<sup>th</sup> day of March 2014.

LOAD RITE EXCAVATING, LLC Defendant

By: /s/ Kathryn J. Derr  
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THEIR ATTORNEY

**CERTIFICATE OF SERVICE**

The undersigned certifies that on the 12<sup>th</sup> day of March 2014, I electronically filed the above-referenced pleading in the above-captioned case with Clerk of the United States Bankruptcy Court using the CM-ECF System which sent electronic notification of such filing to those parties receiving electronic notice herein.

/s/ Kathryn J. Derr